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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,640	09/08/2006	Kazuhiro Nakamura	13425.70USWO	6367

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EXAMINER
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HICKS, ROBERT J

ART UNIT	PAPER NUMBER
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3728

MAIL DATE	DELIVERY MODE
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04/22/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,640	<b>Applicant(s)</b> NAKAMURA ET AL.	
	<b>Examiner</b> ROBERT J. HICKS	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Because of the applicant's amendment, the following in the office action filed December 6, 2010 are hereby withdrawn.

- a. Objections to the specification and the drawings.
- b. Rejections of claims 1-4 under 35 USC 112 2<sup>nd</sup> Paragraph.

### ***Allowable Subject Matter Now Rejected by Art***

2. The indicated allowability of claims 1-4 is withdrawn in view of the newly discovered reference(s) to Stangier (6,332,555), Kauffman (5,143,244), and Beyer (1,784,480). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

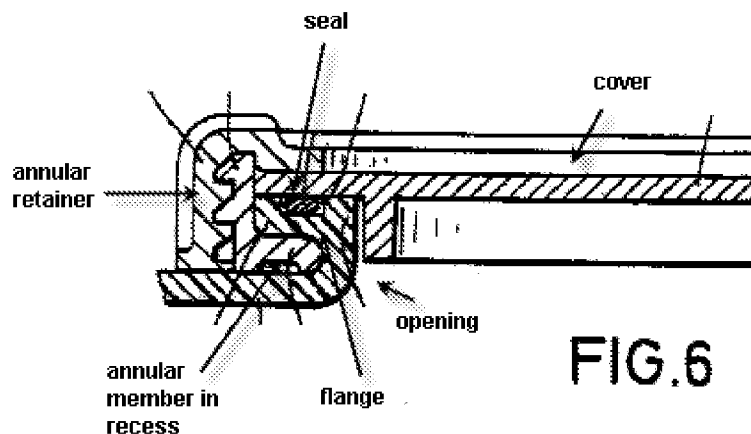
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

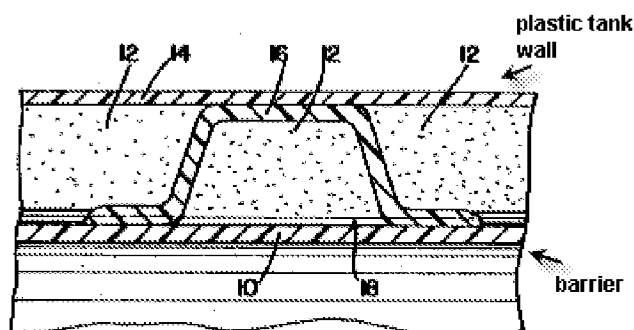
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stangier in view of Kauffman.**

Regarding Amended Claim 1, the patent to Stangier – a fuel tank with a closure and sealing ring – discloses a cover-mounting structure of a plastic container [310, Fig. 6] having a cover [316] for closing an opening provided in a plastic container body [Fig. 6], the plastic container body further having a flange portion [329] surrounding the opening; the cover-mounting structure of the plastic container comprising: a recess provided annularly along a peripheral edge of the opening at an outside of the plastic container body [Fig. 6], with an annular member [358] being embedded integrally in the recess; the cover resting against the flange portion to close the opening [Fig. 6]; a seal [334] provided between the flange portion and the cover to prevent a leak; and an annular retainer [356] fastened to the annular member while resting against an external surface of the cover [Fig. 6]. The examiner notes the cross-section of Figure 6 in Stangier shows the container is made of plastic. See MPEP 608.02 (IX).



Stangier does not expressly disclose that the plastic body has a barrier; however, the patent to Kauffman – a multi-walled tank for fuel – discloses a plastic tank outer wall [Kauffman, 14] with a barrier on the interior [Kauffmann, 10, Fig. 2, and Col. 5 Lines 9-17]. Stangier and Kauffman are both from the art of plastic containers with covers used to store fuel. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the inner wall of the plastic tank in the Stangier assembly to have a barrier, as suggested by Kauffman, in order for the tank to withstand pressure from the interior of the tank [Kauffman, Col. 2 Lines 35-41].



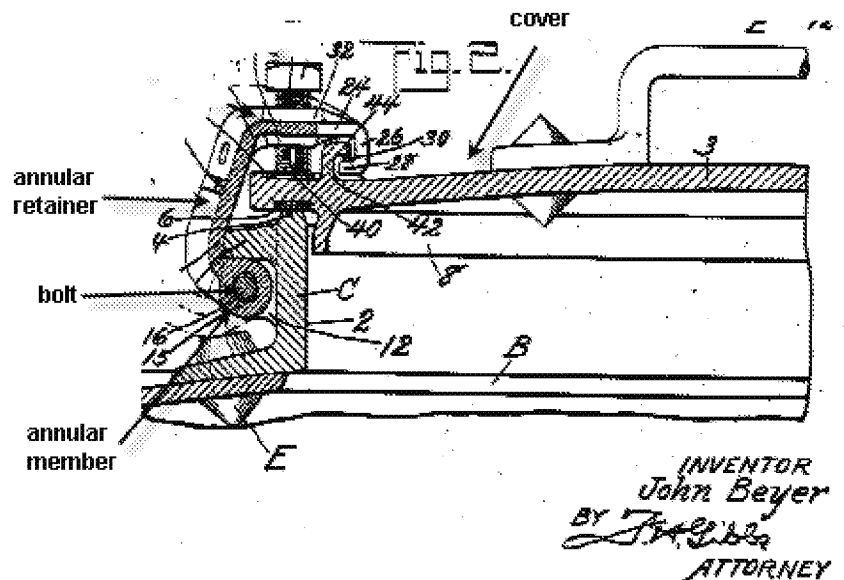
**Fig. 3**

**6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stangier in view of Kauffman as applied to amended claim 1 above, and further in view of Beyer.**

Regarding Claim 2, Stangier in view of Kauffman discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Stangier and Kauffman combination does not expressly disclose that a plurality of bolts for fastening the retainer are provided protrusively in the annular member; however, the patent to

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Beyer – a tank dome and securing means – discloses a plurality of bolts [Beyer, 16] for fastening the retainer [Beyer, 14] are provided protrusively in the annular member [Beyer, Fig. 2, Page 1 Line 98 to Page 2 Line 4]. The examiner notes when viewing down into the hole of the annular member, the pintle [Beyer, 16] is the bolt that holds the annular retainer in place. Stangier, Kauffman, and Beyer are all from the art of containers with covers that are held in place by retainers. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the annular retainer in the Stangier and Kauffman combination closure assembly to have bolts through the retainer in order to hold the retainer in place, as suggested by Beyer, so that “as the screws 36 are tightened, the castings 14 are pulled upwardly until the attaching ends 15 bind against the lower surfaces of the flanges thus relieving the pintles of all strain.” [Beyer, Page 2 Lines 92-97]



Regarding Claim 3, Stangier in view of Kauffman discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Stangier and Kauffman combination does not expressly disclose that a screw hole is provided vertically in the annular member; however, the patent to Beyer discloses a screw hole is provided vertically in the annular member [**Beyer**, Page 2 Lines 4-8]. Stangier, Kauffman, and Beyer are all from the art of containers with covers that are held in place by retainers. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the annular member with through hole for the pintle, as suggested by Beyer, in order to accurately position the retainer [**Beyer**, Page 2 Lines 4-16], plus “as the screws **36** are tightened, the castings **14** are pulled upwardly until the attaching ends **15** bind against the lower surfaces of the flanges thus relieving the pintles of all strain.” [**Beyer**, Page 2 Lines 92-97]

Regarding Claim 4, Stangier in view of Kauffman discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Stangier and Kauffman combination does not expressly disclose that the annular member and the retainer are formed of metal materials; however, the patent to Beyer discloses the annular member [**Beyer**, 15] and the retainer [**Beyer**, 14] are formed of metal materials [**Beyer**, Fig. 2]. The examiner notes the cross-section of the annular member and the retainer show the material is made of metal. See MPEP 608.02 (IX). Stangier, Kauffman, and Beyer are all from the art of containers with covers that are held in place by retainers. It would have been obvious at the time of the invention to one of ordinary

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skill, with a simple substitution of a metal for a plastic used with the annular member and retainer, to have the annular member and retainer in the Stangier and Kauffman combination tank made of metal, as suggested by Beyer, having still the operation of urging the cover in close contact with the container using the retainer [**Stangier**, Col. 2 Lines 24-33].

### ***Response to Arguments***

7. Applicant's arguments with respect to the allowability of claims 1-4 {**Remarks**, Page 10 Lines 22-26} have been considered but are moot in view of the new ground(s) of rejection. See Paragraph 5 of this office action to see how Stangier in view of Kauffman meets the claim limitations set forth regarding amended claim 1.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. HICKS whose telephone number is (571)270-1893. The examiner can normally be reached on Monday-Friday, 8:30 AM - 5:00 PM, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert J Hicks/  
Examiner, Art Unit 3728